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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,599	02/06/2002	Norio Kashiwa	ZU-408	5429

21839 7590 04/04/2005

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EXAMINER

LEE, R P A

ART UNIT PAPER NUMBER

1713

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,599

Applicant(s)

KASHIWA ET AL.

Examiner

Rip A. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02-15-2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action follows a response filed on January 11, 2005. Applicants have canceled claims 3 and 9. Claims 1, 2, 7, and 8 remain for prosecution.

Claim Rejections - 35 USC § 102 / 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,278,272 to Lai *et al.* for the same reasons set forth previously.

Response to Arguments

3. Applicants traverse the rejection of claims 1, 2, 7, and 8 under 35 U.S.C. 102(b) / 35 U.S.C. 103(a) over Lai *et al.* Applicant's arguments have been considered fully, but they are not persuasive.

Applicants offer the same claims that the preferred and especially preferred embodiments, as well as the examples, shown in Lai *et al.* do not teach or suggest the specific ethylene polymers of the claims. A reference must be considered in its entirety and that the disclosure of a reference is not limited to preferred embodiments or specific working examples contained therein. *In re Lamberti*, 545 F.2d 747, 750 192 USPQ 278, 280 (CCPA 1976). Applicant's line of reasoning do not overcome the fact that Lai *et al.* teaches ethylene polymer having a density of from about 0.85 to about 0.97 g/cm³, a melt flow ratio, I_{10}/I_2 of from about 7

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to about 20, and a molecular weight distribution, M_w/M_n from about 1.5 to about 2.5 (col. 3, lines 4-14). The point of the rejection is especially clear when these data are compared in tabular form.

Claim 1	Lai <i>et al.</i>
$d = 0.930 - 0.970 \text{ g/cm}^3$	$d = 0.850 - 0.970 \text{ g/cm}^3$
$M_w/M_n = 1.2 - 10$	$M_w/M_n = 1.5 - 2.5$
$MFR_{10}/MFR_2 = 16.2 - 50$	$I_{10}/I_2 = 7 - 20$
Claim 2	Lai <i>et al.</i>
$d = 0.921 - 0.930 \text{ g/cm}^3$	$d = 0.850 - 0.970 \text{ g/cm}^3$
$M_w/M_n = 1.2 - 4$	$M_w/M_n = 1.5 - 2.5$
$MFR_{10}/MFR_2 = 12 - 50$	$I_{10}/I_2 = 7 - 20$

Clearly, there is teaching of markedly overlapping ranges that constitutes sufficient specificity for anticipatory subject matter, even though the examples do not show a specific working example. *Ex parte Lee*, 31 USPQ 1105.

Applicants again submit that the patent is concerned with elastic polymers. In response, it is noted that the present claims are drawn to "ethylene polymer," and this term is not concerned with the rheological state of the polymer. It is clear that Lai *et al.* is concerned with ethylene polymer (col. 4, line 53 and 60, claims 9-16, and 22-25).

In view of this and previous discussions, the rejection has not been withdrawn.

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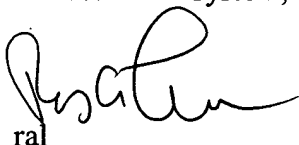
Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

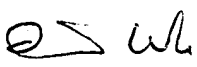
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



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March 28, 2005



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TECHNOLOGY CENTER 1700